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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,675	07/28/2003	Joseph Paul Lauer	50834/RJP/B600	7119
23363	7590	04/18/2006	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			TON, DAVID	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	

2138

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,675

Applicant(s)

LAUER, JOSEPH PAUL

Examiner

David Ton

Art Unit

2138

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/6/06</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's arguments with respect to claims 2-31 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 2-31 are presented for examination.

Double Patenting

3. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and 8 may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 2-4, 5-7 and 8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-11, 15-17 and 25, respectively, of U.S. patent application S/N: 09/573,243 (parent application).

Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claimed subject matter in claims 2-8 of the instant application is broader than the scope of the claimed subject matter in claims 9-11, 15-17 and 25 of the parent application.

5. Claims 9-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34, 10, 37-38, 45-47 and 51 of U.S. patent application S/N: 09/573,243 (parent application). Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the claimed subject matter in claims 9-15 of the instant application is broader than the scope of the claimed subject matter in claims 34, 10, 37-38, 45-47 and 51 of the parent application.

Claim Rejections - 35 USC ' 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 2-3, 8-10 and 15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Yagil et al. (Yagil) patent no. 6,732,315.

As to claim 2:

Yagil teaches the invention as claimed, including a transmitter [Fig. 3] coupled to a non-dedicated local area network channel [phone line 406 of Fig. 3&4] for transmitting non-telephone data packets [video, gaming, col. 2 lines 20-57] over the channel, the transmitter comprising:

An encoder [encoder 114 of Fig. 1] for encoding each non-telephone data to form encoded non-telephone data;

An interleaver [interleaver 120 of Fig. 1] coupled to the encoder for interleaving each encoded non-telephone data to form interleaved encoded non-telephone data; and

A modulator [modulator 126 of Fig. 1] coupled to the interleaver for modulating each interleaved encoded non-telephone data to form modulated interleaved encoded non-telephone data packets that are transmitted over a non-dedicated local area network channel [col. 5 line 65 – col. 6 line 5].

As to claim 3:

Yagil teaches the non-dedicated local area network channel is provided by a telephone line [col. 1 lines 15-17].

As per claim 8:

Yagil teaches Home Phoneline Protocol [col. 1 lines 20-30].

As to claim 9:

Yagil teaches the invention as claimed, including a receiver [Fig. 3] coupled to a non-dedicated local area network channel [phone line 406 of Fig. 3&4] for receiving modulated interleaved encoded non-telephone data packets from the channel, the receiver comprising:

a demodulator [demodulator 226 of Fig. 2] for receiving modulated interleaved encoded non-telephone data packets from the non-dedicated local area network channel and demodulating each modulated interleaved encoded non-telephone data packet to form demodulated interleaved encoded non-telephone data packets;

a deinterleaver [deinterleaver 220 of Fig. 2] coupled to the demodulator for deinterleaving each demodulated interleaved encoded non-telephone data packet to form deinterleaved demodulated encoded non-telephone data packets; and

a decoder [decoder 218 of Fig. 2] coupled to the deinterleaver for decoding each deinterleaved demodulated encoded non-telephone data packet to extract a non-telephone data packet.

As to claim 10:

Yagil teaches the non-dedicated local area network channel is provided by a telephone line [col. 1 lines 15-17].

As per claim 15:

Yagil teaches Home Phoneline Protocol [col. 1 lines 20-30].

Claim Rejections - 35 USC ' 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-7, 12-14, 16-17, 20-22, 23-25, 28-30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yagil et al. (Yagil) patent no. 6,732,315.

As per claims 5-7, 12-14, 20-22 and 28-30:

Official Notice is taken that the interleaving/deinterleaving method including writing data packet into an array row by row and reading data packet out of the array column by column or the size of the number of row/column must be in accordance with a codeword/packet are well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to enhance the teachings of Yagil by using the well known interleaving/deinterleaving method including writing data packet into an array row by row and reading data packet out of the array column by column and limit the size of the number of row/column in accordance with a codeword/packet. This modification would have been obvious and a person having ordinary skill in the art would have been

motivated to do so because it would need a simple circuitry to perform the interleaving/deinterleaving function.

As to claims 16 and 24:

Yagil teaches the invention substantially as claimed in claims 2 and 9 above, including a transmitter/receiver coupled to a non-dedicated local area network channel for transmitting non-telephone data packets over the channel 406 of Fig. 4. Yagil does not teaches a communication circuit comprising an intrapacket encoder and a controller chip.

Official Notice is taken that a communication circuit comprising an intrapacket encoder and a controller chip is well known in the art.

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to enhance the teachings of Yagil by designing a communication circuit comprising well known components such as an intrapacket encoder and a controller chip to perform the function of the HOME PN STATION as taught by Yagil shown in Fig. 1&2&3 as a matter of design choice. This modification would have been obvious and a person having ordinary skill in the art would have been motivated to do so because it would provide a simpler circuit board.

As to claims 17 and 25:

Yagil teaches the non-dedicated local area network channel is provided by a telephone line [col. 1 lines 15-17].

As per claims 23 and 31:

Yagil teaches Home Phoneline Protocol [col. 1 lines 20-30].

10. Claims 4, 11, 18-19 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yagil et al. (Yagil) patent no. 6,732,315, in view of Gibbs patent no. 5,383,204.

As per claims 4, 11, 18-19 and 26-27:

Yagil teaches performing RS encoding; however, Yagil does not teach performing cyclic redundancy check.

Gibbs teaches that performing Reed Solomon encoding and cyclic redundancy check is well known in the art of error correction [see Fig. 1 and col. 2 lines 10-51].

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to enhance the teachings of Yagil perform Reed Solomon encoding and cyclic redundancy check as taught by Gibbs. This modification would have been obvious and a person having ordinary skill in the art would have been motivated to do so because it would detect and correct data error.

Response to Remarks

11. Applicant argued that (A) the prior art does not teach the transmitter/receiver coupled to a non-dedicated network channel for transmitting/receiving over the non-dedicated local area network channel.

12. As to point (A), Yagil, the newly cited art, teaches [see Fig. 3] a transmitter and receiver coupling to a phone line 406 for transmitting/receiving data over the phone line.

Conclusion

13. The prior art of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Ton whose telephone number is (571) 272-3828. The examiner can normally be reached on M-Th from 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Ton
Primary Examiner
Art Unit 2138